

MINUTES OF THE WATERFRONT ADVISORY COMMITTEE

August 4, 2016

Present: Bruce Kauderer, Acting Chairman
Stuart Greenbaum (also Chairman of the Water Control Commission)
Brian Pugh
Bob Anderson

Also Present: Daniel O'Connor, Village Engineer

MINUTES OF THE JOINT WATERFRONT ADVISORY COMMITTEE AND WATER CONTROL COMMISSION

- a) Joint meeting with Water Control Commission to review application from NYSDEC for Regulated Activities in Wetlands and Watercourses for the herbicide control of invasive plant Hydrilla in the Croton River -- Discussion with NYSDEC representatives and recommendation of consistency with LWRP to Water Control Commission.*

Mr. Kauderer, Acting chairman of the WAC, called the WAC meeting to order at 7:38 p.m.

Mr. Greenbaum, Chairman of the Water Control Commission, stated that the WAC had reviewed the proposed project for consistency with the LWRP and had been unable to recommend consistency because the committee did not believe there was sufficient data to make a recommendation. The WAC had raised specific questions to the NYSDEC in the WAC memorandum of July 22, 2016 and the NYSDEC wrote a written response dated August 3, 2016. Representatives from the NYSDEC were present at this joint meeting to answer any other questions or clarify the responses provided.

Mr. Kauderer, Acting Chairman of the WAC, stated that the critical issue was how this treatment would affect the drinking water supply and he believed that the NYSDEC response provided was unsatisfactory. The NYSDEC representative, Mr. David Adams, stated that they (the DEC) were not prepared to have that discussion this evening as they would have to consult with the Department of Health which was not present this evening. Mr. Kauderer stated that unless the injection site was moved 100 yards downstream, the WAC would not be able to recommend consistency with the LWRP.

Mr. Pugh stated he was in agreement with Mr. Kauderer, but expressed curiosity as to how the that number of yards was arrived at. Mr. Kauderer stated that given the geology and the drop in elevation, and a discussion with the Village Engineer, that a minimum of 100 yards would be a reasonable distance from the boundary of the aquifer and therefore unlikely for any contamination of the aquifer.

Mr. Adams, of the DEC, stated that moving the site downstream might affect the mixing of the herbicide with the water and therefore lessening the effectiveness of the hydrilla treatment. Mr.

Kauderer stated that despite the lessening of the herbicides effectiveness downstream, he nor the WAC were willing to take a chance with the water supply. He pointed out that hydrilla was never going to be completely eradicated, but the WAC believed it was better to not have as good a result if it meant that the water supply was protected.

The Water Control Commission asked about injection site options which would compensate for better mixing of the herbicide with the water downstream instead of the initially proposed injection site nearer to the aquifer. The representative of the company that conducts the injection of the herbicide stated that the EPA does not restrict well water in application areas in other parts of the state where this hydrilla treatment had been done. There was some discussion about the boundary of the wellfield, water flow, and where the water is recharged for the aquifer. When the WCC asked if these questions about the injection sites and the likelihood of seeping into the aquifer had ever been posed to the DEC, the representatives stated that the Croton River is different from other situations they had worked with. None of the other sites had been in areas of public water supplies but only at well water sites.

Mr. Kauderer reminded the Water Control Commission that it was not up to the DEC but rather up to the WCC to approve the Wetland Activity Permit and should do so only with the condition that the injection site be moved 100 yards downstream. Mr. Kauderer stated that he respected the DEC and that they had answered all of the WAC's questions with the exception of the injection site location.

MOTION: Mr. Kauderer made a motion to make a recommendation of consistency with the LWRP for the proposed herbicide control of Hydrilla in the Croton River with the condition of moving the injection site 100 yards downstream, seconded by Mr. Pugh and the motion carried by a vote of 4-0.

The Water Control Commission proceeded with its public meeting in which minutes were taken by the Secretary to the Water Control Commission.

CALL TO ORDER: Acting Chairman Kauderer called the meeting of the WAC to order at 9:29 p.m. (after a continuation of WAC joint meeting with WCC)

Mr. Kauderer, as acting chairman, stated that Chairman Kane had resigned, and wanted to take the time to thank Mr. Kane for his leadership, dedication, passion to the Waterfront Advisory Committee's work and he and the committee will greatly miss him. The committee members all agreed.

2. *Referral from Water Control Commission to review application from Thomas Lewis, Agent for Trillium Invasive Species Management, Inc. for multi-year herbicide application project to control phragmites australis and Knotweed (invasive species) in Croton Landing Park, Senasqua Park and Duck Pond Park, and Kaplan's Pond open space area -- consistency review.*

In a review of the CAF, the following necessary corrections should be made::

- Page 1, B.2) *“Describe nature and extent of action”*: Further clarify that any permit granted will be only for one year.
- Page 1, B. 3. *Misspelling of Kaplan’s Pond*

In a review of the EAF, the following corrections should be made:

- On Part I, p.2 *“Does the proposed action require a permit, approval or funding from any other governmental Agency? The answer should be YES, and include the Water Control Commission*
- On p. 2, 9 *“Does the proposed action meet or exceed the state energy code requirements?” The answer should be N/A, not No.*

The Village Engineer explained where the phragmites and knotweed existed in the various parks and open spaces. Mr. Greenbaum noted that former Chairman Kane had mentioned that this chemical is no longer being used in Europe because it is carcinogenic, but still being used in the United States. Mr. Greenbaum and Mr. Kauderer stated that they would like an answer to this comment.

The Village Engineer stated that the herbicide is a contact herbicide, and is a broad spectrum plant killer (such as Roundup) and it needs to be applied carefully. The concentration is probably different in different applications. The Village Engineer stated that he had asked the arboretum if they noticed an impact on non-target areas, and the Karen Jescavage-Bernard stated that she did not notice any non-target impacts.

Mr. Greenbaum stated that the applicant was asking for a five year permit, but he thought one year at a time was preferable. Mr. Kauderer stated he would not want to give a five year permit. It was noted that Trillium Inc. had already started the pruning of the phragmites.

The Village Engineer described where the small patch of knotweed is located on Elliott Way, on the edge of the river but not in the river. Knotweed does not spread like phragmites. He further explained that the treatment is labor intensive since an applicator is used to apply the herbicide, not by spray. The Village Engineer noted that Tom Lewis of Trillium has excellent recommendations and is highly regarded in the field.

Mr. Kauderer asked how close the homes were to Kaplan’s Pond, and the Village Engineer stated that there was just one property that was on the side of the pond with phragmites, and that the homeowner had in previous years observed phragmites encroaching onto his property and had no issues with the treatment of this invasive species.

In a review of the 44 policies of the LWRP, the following policies were identified as applicable and the proposed project consistent:

POLICY 1: Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational and other compatible uses.

This policy is applicable and the proposed project consistent because removal of phragmites and knotweed will restore and revitalize the waterfront areas which otherwise will be significantly impacted by the invasive species.

POLICY 7: Significant coastal fish and wildlife habitats will be protected, preserved, and, where practical, restored so as to maintain their viability as habitats.

POLICY 7A: The quality of the Croton River and Bay significant fish and wildlife habitat and Haverstraw Bay significant fish and wildlife habitat shall be protected and improved for conservation, economic, aesthetic, recreational, and other public uses and values. Its resources shall be protected from the threat of pollution, misuse, and mismanagement.

POLICY 7B: Materials that can degrade water quality and degrade or destroy the ecological system of the Croton River and Bay significant fish and wildlife habitat and the Haverstraw Bay significant fish and wildlife habitat shall not be disposed of or allowed to drain in, or on land within, the area of influence in the significant fish and wildlife habitats.

These policies are applicable to the proposed herbicide application project because phragmites is an invasive species that can significantly impact the native plants of the Croton River and Bay. The proposed herbicide application project to control phragmites and knotweed is consistent with these policies because removal of the invasive species will allow the native plants to survive.

POLICY 9: Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources. Such efforts shall be made in a manner which ensures the protection of renewable fish and wildlife resources and considers other activities dependent on them.

POLICY 9A: Ensure continued recreational use and public access to the rivers through Village-owned land adjacent to the Metro-North parking lot, at Croton Point Park and at Senasqua Park along the Croton River, and at the Croton Yacht Club. Efforts should be made to encourage recreational use of the fish and wildlife resources found in these areas by increasing the opportunities for public access and enjoyment.

POLICY 9B: Encourage passive recreational enjoyment of the wildlife in the designated significant fish and wildlife habitats, on the Audubon Society Sanctuaries, on other public or private lands within the Village, where wildlife habitats are located. Encourage the recreational use of areas where such resources are found, as well as the protection of such resources.

These policies are applicable to the proposed herbicide application project because invasive species destroy the plants and fish life in these habitats. The proposed herbicide application

project is applicable because the herbicide treatment of the phragmites and knotweed will prevent the invasive species from spreading and significantly impacting the native plant and significant fish life.

POLICY 19: Protect, maintain, and increase the level and types of access to public water-related recreation resources and facilities so that these resources and facilities may be fully utilized in accordance with reasonably anticipated public recreation needs and the protection of historic and natural resources. In providing such access, priority will be given to public beaches, boating facilities, fishing areas and waterfront parks.

POLICY 19B: Increase physical access to areas that have specific value for their physical and visual access to the Hudson River or Croton River and Bay.

These policies are applicable because invasive species significantly impact the growth of native plants and therefore would significantly impact fishing areas and public recreation areas. If left untreated, the invasive species potentially could limit the river view.

POLICY 21: Water dependent and water enhanced recreation will be encouraged and facilitated, and will be given priority over non-water related uses along the coast, provided it is consistent with the preservation and enhancement of other coastal resources and takes into account demand for such facilities. In facilitating such activities, priority shall be given to areas where access to the recreation opportunities of the coast can be provided by new or existing public transportation services and to those areas where the use of the shore is severely restricted by existing development.

This policy is applicable because knotweed and phragmites are spreading in the park areas. If left untreated, the invasive species could potentially limit the use of the parks for recreational activities such as boating and fishing.

POLICY 25: Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.

If left untreated, invasive species can potentially limit the view of the river. The proposed herbicide treatment can stop the growth of phragmites and knotweed, allowing native plants to survive.

Mr. Greenbaum made a motion to recommend consistency of the proposed project with the LWRP, seconded by Mr. Pugh, and the motion carried, by a vote of 4-0.

3. ADJOURNMENT

Meeting was adjourned at 10:10 p.m.

Respectfully submitted,

Ronnie L. Rose
Secretary to the Waterfront Advisory Committee